

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

LIFEWATCH SERVICES INC.,

*Plaintiff,*

v.

Civil Action No. 09-CV-6001

BRAEMAR, INC. AND  
ECARDIO DIAGNOSTICS, LLC,

*Defendants.*

**JOINT MOTION TO AMEND CERTAIN CASE DEADLINES**

Pursuant to Federal Rule 16(b)(4), the parties to this lawsuit, Plaintiff LifeWatch Services Inc. (“LifeWatch”) and Defendants Braemar, Inc. and eCardio Diagnostics, LLC, jointly move the Court to amend the scheduling order to extend certain deadlines in this case, as set forth herein.

The parties believe good cause exists to grant this motion. The patent at issue in this case (the ‘143 patent) is currently under re-examination by the U.S. Patent and Trademark Office (“PTO”) and the PTO in a recent Final Office Action has currently rejected all claims of the ‘143 Patent. Further activity in the PTO on this rejection is anticipated in the next two months. Given the current status of the reexamination proceeding, the parties believe that it is reasonable to extend the *Markman*-related deadlines currently scheduled to occur in the next several weeks and the remaining case deadlines by three months.

The parties agree that LifeWatch, by joining in this motion, is not waiving its position that the ‘143 patent is valid and enforceable. Further, the parties agree that Defendants, by joining in this motion, are not prejudicing their right to seek a stay of this action pending reexamination if

LifeWatch elects to appeal a final rejection by the PTO.

The parties jointly move for the following revised schedule:

<u>Deadline</u>	<u>New Date</u>
Deadline for Plaintiff to submit a Responsive Claim Construction Brief	<b>March 16, 2011</b>
Deadline for Defendants to submit a Reply Claim Construction Brief	<b>April 5, 2011</b>
Deadline for Plaintiff to submit a Sur-Reply Claim Construction Brief (limited to 5 pages in length)	<b>April 15, 2011</b>
Deadline to submit Joint Claim Construction Chart & Joint Status Report with proposals for Claim Construction Hearing	<b>April 30, 2011</b>
Claim Construction Hearing	<b>TBD at the Court's convenience after April 30, 2011</b>

The parties note that if the Court chooses to grant this motion without a hearing, the status conference in this matter scheduled for December 7, 2010 may not be needed. The parties' counsel are available at the Court's convenience.

**REQUEST FOR RELIEF**

WHEREFORE, the parties respectfully request that the Court grant this motion modifying certain case deadlines as set forth above.

Dated: December 2, 2010

*/s/ Jeremy P. Oczek (with permission)*

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*ATTORNEYS FOR LIFEWATCH SERVICES INC.*

*/s/ John L. Krenn*

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### **CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing document via the Court's CM/ECF system on this 2<sup>nd</sup> day of December, 2010.

*/s/ John L. Krenn*

John L. Krenn

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